IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6722 of 2007()

CR NO. 50/07 OF NEYYATTINKARA EXCISE RANGE

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PETITIONER/ACCUSED

THANKAPPAN, S/O.LATE MADHAVAN,
PARKKODE MELE PUTHEN VEEDU, ILAVINMOODU,
ATHIYANNOOR VILLAGE, NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6722 of 2007

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Dated this the 5th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to keep in his possession 1.5 litres of spurious IMFL on 14.10.2007. Seeing the Excise party he allegedly abandoned the article and took to his heels. He could not be apprehended. Investigation is in progress. The petitioner has two other cases registered under the Abkari Act earlier against him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He prays that he may be granted anticipatory bail.

3. The application is stoutly opposed by the learned Prosecutor. He submits that the available indications clearly point to the culpability of the petitioner. He has a criminal antecedents and he does not deserve to be granted anticipatory bail, submits the Prosecutor.

4. I have considered all the relevant inputs. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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